



TESTIMONY IN SUPPORT OF SENATE BILL 27

Criminal Procedure – Restorative Justice Program

TO: Members of the Senate Judicial Proceedings and House Judiciary Committees

FROM: **Heather Warnken, Executive Director, Center for Criminal Justice Reform, University of Baltimore School of Law**

DATE: February 1, 2023

My name is Heather Warnken, and I am the Executive Director of the University of Baltimore School of Law’s Center for Criminal Justice Reform. I also want to acknowledge the thoughtful contributions of our Research Fellow, UB Law student Braden Stinar. The Center is dedicated to supporting community driven efforts to improve public safety and address the harm and inequity caused by the criminal legal system.

Prior to my current role, I served as a Visiting Fellow at the US Department of Justice, in the first-ever position dedicated to bridging the gap between research, policy and practice to improve the response to individuals and communities impacted by crime victimization. Through this role I facilitated collaboration across federal, state and local government partners, practitioners, researchers, and directly impacted communities in the design and implementation of equitable, data-informed policies, programs and funding streams nationwide.

Much of that work involved advising and collaborating with DOJ’s Office for Victims of Crime on numerous initiatives, including ones related to post conviction and corrections-based victim services nationwide.

Dating back to 2012, I was also a founding emeritus member of the national network Crime Survivors for Safety and Justice, founded in California and now spanning upwards of 100,000 members and growing across eight chapters nationwide. I have participated in restorative justice dialogues both in and outside of incarceration facilities, through both my policy work and as a surrogate victim of crime.

Based on this background and experience, I want to highlight two overarching points today.

- 1. There is a deep and urgent need for greater availability of restorative justice programming in Maryland and across the United States.**

There are many reasons for this, including how inaccessible and insufficient the more “traditional” victim services infrastructure has been for the majority of victims of crime. Most victims never experience their

harm being prosecuted in the criminal justice system,¹ and even less so ending in a conviction, but for the relatively small percentage who do, many continue to express deep dissatisfaction or even retraumatization with a criminal justice system not designed to deliver on their needs.²

In the year since the passage of the Victims of Crime Act (VOCA), there has been a proliferation of law and policies; in the neighborhood of 32,000 of them in all states and territories and at the federal and local level. These are guarantees we've made to victims on paper about the rights and services that we feel that their healing and dignity require. Yet the National Crime Victimization Survey (NCVS) paints a much different picture of this reality, noting that only 9.6 percent of victims of serious violence overall report getting access to services, and that this number has not moved much in a year since this question was first added to the NCVS in 1993.³

Restorative justice is a transformative approach with incredible potential for more effectively meeting the needs of many victims, especially those whose experiences and wishes have diverged from the hard and often inhumane edges of the criminal justice system. In addition to its potential to provide deeper engagement, voice, healing, and closure for those seeking it, and who faced barriers to such engagement through the earlier adjudicatory phases of their case, it also holds great transformative potential for incarcerated persons. In the right context and circumstances, it can offer more meaningful accountability and reduction of recidivism than incarceration alone, or even other rehabilitative programming. Though restorative justice outcomes have been understudied and are indeed difficult to study, meta-analysis released by USDOJ demonstrates that restorative justice programming when compared to traditional approaches can reduce future criminal behavior and produce greater satisfaction for victims.⁴

This should not surprise us. By placing an emphasis on humanizing both the individual who caused harm and the victim who suffered it, the process can create a bridge of better understanding through which significant healing can take place. For individuals who have committed harm, even very serious forms of violent crime, restorative justice dialogues can foster understanding of the consequences and impact of behavior on victims and society on a deeper level than a traditional punitive response.

¹ Who Experiences Violent Victimization and Who Access Services: Findings from the National Crime Victimization Survey for Expanding Our Reach. Warnken and Lauritsen, 2019. <https://www.ojp.gov/ncjrs/virtual-library/abstracts/who-experiences-violent-victimization-and-who-accesses-services>; A Vision for Equite in Victim Services: What Do the Data Tell Us About the Work Ahead. Presentation for the US Department of Justice, Heather Warnken (2021). <https://ovc.ojp.gov/media/video/12971>.

² Helping Those Who Help Others: Key Findings from a Comprehensive Assessment of the Victims Field. VERA Institute of Justice, National Resource Center for Reaching Victims (2021). <https://www.reachingvictims.org/resource/nareport/>.

³ Who Experiences Violent Victimization and Who Access Services: Findings from the National Crime Victimization Survey for Expanding Our Reach. Warnken and Lauritsen, 2019. <https://www.ojp.gov/ncjrs/virtual-library/abstracts/who-experiences-violent-victimization-and-who-accesses-services>.

⁴ Effectiveness of Restorative Justice Programs. US Department of Justice, Office of Justice Programs (2017). <https://www.ojp.gov/pdffiles1/ojdp/grants/250995.pdf>.

A study conducted by the International Association for Correctional and Forensic Psychology noted the benefits, finding both parties (victim and perpetrator) involved in restorative justice programming reported a “positive outlook” on programs they had completed.⁵ Bringing together these parties in ways made impossible by the legal system previously in their journey, it can create a clearer image of why the harm happened in the first place, enabling the person who committed violent acts better recognize and eliminate patterns of behavior relevant to whether they reoffend. For victims, the process can foster healing from PTSD and new forms of confidence in their community.

International research also provides compelling evidence on the effectiveness of restorative justice programming, including return on investment for public safety, and direct savings of future criminal justice system costs.⁶

2. Collectively, we should not let the important and complex details surrounding implementation of such programming prevent us from pursuing it.

I share questions, concerns, and priorities expressed by various opposing voices regarding ensuring that in practice, implementation of this bill would protect the rights, dignity and autonomy of all parties involved, most certainly crime victims. I believe through further negotiations, as well as the structure of the Council built into this bill, that is achievable here.

I will note for this committee some of the important areas where implementation and process questions remain, including funding structure, in which state agencies the programming and personnel will be based, how community partnerships are formed and utilized, and the terms and definitions used in the bill (including, where possible, using person-first language more true to the spirit of this bill).

I will lastly underscore the benefits of certain uses of flexibility; for example, the ability to pursue dialogue opportunities with a surrogate victim in cases where for many reasons it may not be feasible, safe, or desirable to bring together the original parties.

There are too many unmet needs in this space to let the complexity surrounding application of restorative justice in a post conviction or correctional setting get in the way of creating better access to the immeasurable benefits it can bring.

For these reasons, we urge a favorable report on SB 27.

⁵ Effectiveness of Restorative Justice Programs. US Department of Justice, Office of Justice Programs (2017). <https://www.ojp.gov/pdffiles1/ojdp/grants/250995.pdf>.

⁶ New Research on the Efficacy of Restorative Justice in Criminal Justice Settings (2021). <https://www.myiacfp.org/2021/04/07/new-research-on-the-efficacy-of-restorative-justice-in-criminal-justice-settings/>